

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JULIA MANCEBO and ANGELA HERRERA,

Plaintiffs,

-against-

THE CITY OF NEW YORK & POLICE OFFICER  
AHMED,

Defendants.

**ANSWER**

07 Civ. 5602 (RJH)

**JURY TRIAL DEMANDED**

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Defendants, the City of New York and Police Officer Ashraf Ahmed, by their attorney Michael Cardozo, Corporation Counsel of the City of New York, for their answer to the complaint, respectfully allege, upon information and belief, as follows:

1. Deny the allegations set forth in paragraph "1" of the complaint, except admit that plaintiffs purport to bring this action as stated therein.
2. Deny the allegations set forth in paragraph "2" of the complaint, except admit that plaintiffs purport to invoke the jurisdiction of this court as stated therein.
3. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "3" of the complaint.
4. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "4" of the complaint.
5. Deny the allegations set forth in paragraph "5" of the complaint, except admit that the City of New York is a municipal corporation organized and existing under the laws of the State of New York.

6. Deny the allegations set forth in paragraph "6" of the complaint, except admit that Officer Ashraf Ahmed was and is employed by the City of New York as a Police Officer.

7. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "7" of the complaint.

8. Deny the allegations set forth in paragraph "8" of the complaint, except admit that on or about May 4, 2007, plaintiff Julia Mancebo was arrested at or near 560 56<sup>th</sup> Street, Brooklyn, New York for Disorderly Conduct and Resisting Arrest.

9. Deny the allegations set forth in paragraph "9" of the complaint, except admit that on or about May 4, 2007, plaintiff Julia Mancebo was arrested at or near 560 56<sup>th</sup> Street, Brooklyn, New York for Disorderly Conduct and Resisting Arrest, transported to the 72<sup>nd</sup> Precinct Stationhouse, and processed under Arrest #K07640387.

10. Deny the allegations set forth in paragraph "10" of the complaint, except admit, upon information and belief, that on or about May 5, 2007 the Kings County District Attorney's Office declined to prosecute plaintiff Julia Mancebo.

11. Deny the allegations set forth in paragraph "11" of the complaint.

12. Deny the allegations set forth in paragraph "12" of the complaint.

13. Deny the allegations set forth in paragraph "13" of the complaint.

14. Deny the allegations set forth in paragraph "14" of the complaint, except admit that plaintiffs purport to bring this action as stated therein.

15. Deny the allegations set forth in paragraph "15" of the complaint, except admit that plaintiffs purport to invoke the jurisdiction of this court as stated therein.

16. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "16" of the complaint.

17. Deny the allegations set forth in paragraph "17" of the complaint, except admit that the City of New York is a municipal corporation organized and existing under the laws of the State of New York.

18. Deny the allegations set forth in paragraph "18" of the complaint, except admit that Officer Ashraf Ahmed was and is employed by the City of New York as a Police Officer.

19. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "19" of the complaint.

20. Deny the allegations set forth in paragraph "20" of the complaint, except admit that on or about May 4, 2007, plaintiff Julia Mancebo was arrested at or near 560 56<sup>th</sup> Street, Brooklyn, New York for Disorderly Conduct and Resisting Arrest.

21. Deny the allegations set forth in paragraph "21" of the complaint, except admit that on or about May 4, 2007, plaintiff Julia Mancebo was arrested at or near 560 56<sup>th</sup> Street, Brooklyn, New York for Disorderly Conduct and Resisting Arrest, transported to the 72<sup>nd</sup> Precinct Stationhouse, and processed under Arrest #K07640387.

22. Deny the allegations set forth in paragraph "22" of the complaint, except admit, upon information and belief, that on or about May 5, 2007 the Kings County District Attorney's Office declined to prosecute plaintiff Julia Mancebo.

23. Deny the allegations set forth in paragraph "23" of the complaint.

24. Deny the allegations set forth in paragraph "24" of the complaint.

25. Deny the allegations set forth in paragraph "25" of the complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE:**

26. The complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE:**

27. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE:**

28. Any injury alleged to have been sustained resulted from plaintiffs' own culpable or negligent conduct and was not the proximate result of any act of the defendants.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:**

29. Punitive damages cannot be assessed against defendant City.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:**

30. There was probable cause for plaintiffs' arrests.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:**

31. At all times relevant to the acts alleged in the complaint, the duties and functions of the municipal defendant's officials entailed the reasonable exercise of proper and lawful discretion. Therefore, defendant City has governmental immunity from liability.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:**

32. Plaintiffs provoked any incident.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE:**

33. This action may be barred in whole or in part by the applicable statute of limitations.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE:**

34. Plaintiffs may have failed to comply with New York General Municipal Law § 50-e.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE:**

35. Defendant Ahmed has not violated any clearly established constitutional or statutory right of which a reasonable person would have known and therefore is protected by qualified immunity.

**WHEREFORE**, defendant City of New York and Officer Ahmed request judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
September 5, 2007

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City of New York  
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Police Officer Ashraf Ahmed  
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By:   
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Docket No. 07 Civ. 5602 (RJH)
UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK
JULIA MANCEBO and ANGELA HERRERA,  Plaintiffs,  -against-  THE CITY OF NEW YORK & POLICE OFFICER AHMED,  Defendants.
<b>ANSWER</b>
<b>MICHAEL A. CARDOZO</b> <i>Corporation Counsel of the City of New York Attorney for Defendants City of New York and Officer Ashraf Ahmed 100 Church Street New York, New York 10007</i>  <i>Of Counsel: Basil C. Sitaras Tel: (212) 788-0422</i>
<i>Due and timely service is hereby admitted.</i>  <i>New York, N.Y. ...., 2007</i>  <i>..... Esq.</i>  <i>Attorney for .....</i>